

**IN THE COURT OF JUDICIAL MAGISTRATE**  
**1<sup>st</sup> CLASS, UDALGURI, ASSAM**

**G.R. Case No.775/20 (PRC No. 906/20)**  
**u/s 447/323/354(B)/294 of IPC**

**State of Assam**  
**-Vs-**  
**Sri Nripen Baishya**  
**..... Accused person.**

*Present:- Smt. Priyanka Purkayastha, A. J. S.*  
*Judicial Magistrate 1<sup>st</sup> Class, Udalguri*

*Advocates appeared:*

For the State : Sri Jacquel Daimari

For the Defence : Sri Tarun Ch. Boro

Dates of Evidence : 04.12.2021, 15.12.2021

Date of Argument : 31.12.2021

Date of Judgment : 31.12.2021

## **J U D G M E N T**

### **Initiation of Proceeding:**

1. This case was initiated on the filing of a written FIR on **22.07.2020** by the informant **Miss Nayani Behera** against **Sri Nripen Baishya**, the accused in this case.

### **Prosecution Story:**

2. The prosecution story in brief is that, on **21.07.2020** at about **07 PM**, while the informant was having a conversation with one of her neighbours with a phone in her hand, the accused came in front of her house and uttered obscene words and made obscene gesture towards the informant. When the informant scolded the accused, the accused rushed towards the informant and gave her fist blows on her backside and as a result, she fell down on the ground. The accused then kicked the informant and torn off her wearing frock. In the mean time, the neighbouring people came for her rescue. Hence, this case.
3. On receipt of the aforesaid FIR, the Officer-in-Charge of Panery Police Station registered a case vide Panery PS case no. **59/2020**, u/s **447/294(a)/323/354(B) of IPC** and endorsed

**ASI Ibrahim Khalilullah** to conduct the investigation of the case.

4. After completion of the investigation, the Investigating Officer submitted charge-sheet u/s **447/294(a)/323/354(B) of IPC** against the accused.

**Procedure followed:**

5. On receipt of the charge-sheet, the cognizance of the said offence was taken u/s **190(1)(b) of Cr.PC.** After furnishing the copies of the relevant documents u/s **207 of Cr.PC** to the accused, a formal charge was framed u/s **447/323/354(B)/294 of IPC** against the accused which was on being read over and explained to the accused, he pleaded not guilty and claimed to be tried. Hence, this trial.
6. In due course of trial, the prosecution examined **three (3) nos.** of witnesses and thereby the prosecution evidence was closed. The statement of the accused u/s **313 of Cr.PC** was recorded in separate sheet which was in total denial and the same was kept with the case record. The accused declined to adduce any defence evidence. I have heard

arguments from both the learned prosecution and the learned defence counsel.

**Points for determination:**

- I. Whether the accused on 21.07.2020 at about 07.00 PM, at Vill- Pub Khoirajangal, PS-Paneri, committed criminal trespass by entering into the property of Miss Nayani Behera at that time in possession of Miss Nayani Behera with intent to commit an offence and thereby committed an offence punishable u/s 447 of IPC?***
  
- II. Whether the accused on 21.07.2020 at about 07.00 PM, at Vill- Pub Khoirajangal, PS-Paneri, voluntarily caused hurt to the informant Miss Nayani Behera and thereby committed an offence punishable u/s 323 of IPC?***
  
- III. Whether the accused on 21.07.2020 at about 07.00 PM, at Vill- Pub Khoirajangal, PS-Paneri, assaulted the informant Miss Nayani Behera with the intention of disrobing or compelling her to be naked and thereby committed an offence punishable u/s 354(B) of IPC?***

***IV. Whether the accused on 21.07.2020 at about 07.00 PM, at Vill- Pub Khoirajangal, PS- Paneri, committed an obscene act and uttered obscene words causing annoyance to others and thereby committed an offence punishable u/s 294 of IPC?***

**Decision and reasons for the decision thereon:**

7. Let me now evaluate the evidences adduced by the witnesses in the present case in light of law.
8. **PW1, Smti. Nayani Behera**, the informant of this case, stated that she knew the accused and the incident took place about a few months ago. On the day of the incident, while **PW1** was having a conversation with one of her brothers, the accused came and started to scold her. After that, an altercation took place in between **PW1** and the accused and on becoming angry, **PW1** filed this case against the accused.
9. During the cross-examination, **PW1** stated that the accused is her neighbor and her relationship with the family of the accused is good and **PW1** has no grievance against the accused and no objection if the accused is acquitted in this case.

- 10.**            **PW2, Sri Deben Sudra** stated that he knew both the informant and the accused. The incident took place about **6/7 months** ago but **PW2** did not witness the incident. **PW2** heard that there occurred some dispute in between the informant and the accused.
- 11.**            During the cross-examination, **PW2** stated that he did not witness the incident.
- 12.**            **PW3, Sri Sujit Seal** stated that he knew both the informant and the accused. The incident took place about one year ago in the evening time but he did not witness the incident. **PW3** heard that there occurred an altercation in between the informant and the accused but he did not know the reason of their altercation.
- 13.**            During the cross-examination, **PW3** stated that he did not witness the incident.
- 14.**            On a plain reading of the evidences adduced by the witnesses, it appears that while **PW1** was having a conversation with one of her brothers, the accused came and started to scold her following which

an altercation took place in between **PW1** and the accused and this case was filed on mere anger. Though **PW2** and **PW3** are hearsay witnesses but their testimonies corroborate the statement of **PW1**.

- 15.** Having so discussed above, the Court is of the opinion that none of the witnesses had implicated the accused for the alleged offences and no incriminating material is found against the accused to hold that the accused had committed any act as such to bring home the offences **447/323/354(B)/294 of IPC** as alleged against him. Therefore, the points for determination are decided in negative.

### **ORDER**

- 16.** In view of the above reasons, it is found that the prosecution is unable to prove the case beyond all reasonable doubts. Hence, the accused **Sri Nripen Baishya** is held not guilty under section **447/323/354(B)/294 of IPC** and he is acquitted. The accused is set at liberty forthwith. The bail bond shall stand extended for six months as per Sec **437-A of Cr.PC**.

- 18.** The judgment is delivered in the open Court in presence of the accused and the learned counsels.

*Given under my hand and the seal of this court on this **31<sup>st</sup> day of December, 2021.***

Dictated and corrected by me,

(P. Purkayastha)  
JMFC, Udalguri

(P. Purkayastha)  
JMFC, Udalguri

**APPENDIX**

A. Prosecution witnesses-

- (1) **PW1 Miss Nayani Behera (informant)**
- (2) **PW2 Sri Deben Sudra**
- (3) **PW3 Sri Sujit Seal**

B. Court witness- Nil.

C. Defence Witness- Nil.

D. Documents exhibited: Nil

(P. Purkayastha)  
JMFC, Udalguri